

1 **ITEM 14**  
 2 **AMENDMENT (VERSION 2)**  
 3 **MAYOR ADLER**  
 4

5 **PART 3.** City Code Section 2-7-46 (*Oaths and Requests for Information*) is amended to amend  
 6 Subsection (A), add new Subsections (B), (C), (D), and (E), and (F) to re-letter the remaining  
 7 subsections:

8 **§ 2-7-46 OATHS AND REQUESTS FOR INFORMATION.**

- 9 (A) Subject to the limitations in this section, ~~if~~ if a complaint proceeds to a final  
 10 hearing, the commission may subpoena or request witnesses to attend and testify,  
 11 administer oaths and affirmations, take evidence, and subpoena or request the  
 12 production of books, papers, records, or other evidence needed for the  
 13 performance of the commission's duties or exercise of its powers, including its  
 14 duties and powers of investigation.
- 15 (B) Before the commission may issue a subpoena, the commission shall submit a  
 16 written request for a person to appear before them, for the production of  
 17 documents, or for any other evidence. All city officials and employees will  
 18 cooperate with the commission to assist it in carrying out its charge, and must  
 19 supply requested testimony and documents if the documents are public records as  
 20 set forth in the Public Information Act (Chapter 552 of the *Texas Government*  
 21 *Code*) or other applicable law. Identifying information about any informant or  
 22 witness in documents provided to the commission must be redacted.
- 23 (C) The commission may issue a subpoena on its own or upon request of a  
 24 complainant or respondent. If requested by a party to the complaint, the party  
 25 must make a sworn request and state that the party in good faith believes that such  
 26 item or testimony exists. The party must provide a detailed description of any  
 27 requested items or testimony sufficient to be able to identify the items or  
 28 information; must state that the party has attempted to obtain such items or  
 29 information otherwise; and, that the party in good faith believes that the person or  
 30 entity whose name and address is specified in the sworn request does possess or  
 31 control the requested item or information.
- 32 (D) Any subpoena issued by the commission is subject to the following requirements:
- 33 (1) the subpoena may only be served within the Austin-Round Rock  
 34 Metropolitan Statistical Area defined as Travis, Williamson, Bastrop, Hays,  
 35 Burnet, and Caldwell;

- 1 (2) may not be served on a current City employee;
- 2 (3) may not be served on current or former staff in the Law Department or
- 3 outside legal counsel retained by the City; and,
- 4 (4) may not include a request for documentation which the city could withhold
- 5 under the Public Information Act (Chapter 552 of the *Texas Government*
- 6 *Code*).

7 (E) Objection to subpoena. If a subpoena is issued upon the request of a party to the

8 complaint, a person may object to a subpoena within seven working days after

9 receiving the subpoena. Objections to subpoenas must be in writing and

10 submitted to the city clerk. Not later than the fifth working day after the city

11 clerk receives the objection, the city clerk shall acknowledge the receipt of the

12 objection to the subpoena and provide a copy of the objection to the city attorney,

13 the chair of the commission, the complainant and the respondent. If the

14 commission issued the subpoena upon request of the complainant or respondent,

15 the complainant or respondent shall within three working days after receipt of

16 the objection provide a written response to the city clerk. The city clerk shall

17 provide notice of receipt of a response to the objection in the same manner as

18 receipt of an objection as set forth in this subsection. The commission shall rule

19 on the objection. If a person to whom the subpoena is properly issued fails to

20 object to a subpoena within the time specified in this section, the person waives

21 any objection to the subpoena.

22 (F) Appeal to Council. A person that is a party to the complaint or subject of a

23 subpoena may appeal the commission's decision on an objection to a subpoena

24 to the Audit and Finance Committee of the City Council by filing an appeal with

25 the City Clerk's office no later than ten days after the commission's decision.

26 The request for an appeal must include a concise statement detailing the reasons

27 the person believes the commission's decision should be overruled. The City

28 Clerk will distribute the request for an appeal in the same manner described in

29 subsection (E) above. The staff assigned to the commission will place the appeal

30 on the next available council-committee agenda in accordance with the council's

31 committee meeting procedures. The council-committee may vote to adopt, reject

32 or modify the decision of the commission. A member of the Council may not

33 take any part in a deliberation, vote, or decision regarding a subpoena issued to

34 the council member or is issued in a complaint alleging a violation by the council

35 member or a member of their staff.